

REMARKS

Claims 1-34 are pending. No claim amendments are made herein.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishibu et al., Analytical Biochemistry (2003) 319:88-95 ("Nishibu"). (July 8, 2009 Office Action, page 3)

As explained herein the applicants can perfect their priority date of January 21, 2004 thereby overcoming the anticipation rejection under 35 USC § 102(b).

The Declaration filed in the instant application indicates that this application is a National Stage of PCT/JP2005/000737 filed on January 21, 2005.

The Declaration also indicates a priority claim from PCT/JP2004/000504 filed a year earlier than PCT/JP2005/000737 on January 21, 2004.

Attached is a certified English translation of PCT/JP2004/000504 hereby perfecting the priority date of the instant application to January 21, 2004.

The Nishibu reference is dated August 1, 2003.

The submission of the certified English translation, having proper support for the invention now claimed and consistent inventive entity, overcomes the anticipation rejection under 35 USC § 102(b), making this rejection now moot. The support for the invention of non-withdrawn Claims 1-11 can be found in the English translation of PCT/JP2004/000504 in at least the following portions:

p.4, lines 11-13 and

p.8, line 8 to p.9, line 25.

The instant application has one additional inventor compared with PCT/JP2004/000504, but since the invention now claimed in non-withdrawn Claims 1-11 is word for word supported in PCT/JP2004/000504, it is clear that the subject matter of Claims 1-11 was invented by the present inventors.

In light of perfecting the priority date, it is respectfully requested that rejection under 35 USC § 102(b) be withdrawn.

In order to antedate and remove the Nishibu reference, the Applicants also submit a related foreign application JP2004-138577, and its machine English translation, published on

May 13, 2004, which is after the filing date of the priority application PCT/JP2004/000504 filed on January 21, 2004.

JP2004-138577 has three inventors, all of which are inventors of the instant application, along with 3 additional inventors.

The support for the invention of non-withdrawn Claims 1-11 can be found in the English machine translation of JP2004-138577 in at least the following portions:

p.2-3.

The instant application has three additional inventors compared with PCT/JP2004/000504, but since the invention now claimed in non-withdrawn Claims 1-11 is word for word supported in JP2004-138577, it is clear that the subject matter of Claims 1-11 was invented by the present inventors.

JP2004-138577, filed on October 21, 2002 and published on May 13, 2004, is evidence that the claimed invention was conceived prior to the Nishibu reference dated August 1, 2003. Therefore the submission of JP2004-138577, with word for word support of instant Claims 1-11 and consistent inventive entity, is sufficient evidence to remove Nishibu as a reference.

Therefore on proof of earlier invention, Nishibu is removed as prior art.

In view of the remarks and evidence submitted, applicant requests reconsideration of all pending rejections and believes the application is now in condition for allowance.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105.

Dated: February 12, 2010

Respectfully submitted,

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Encls: Certified English translation of PCT/JP2004/000504 (69 pages)
Foreign application JP2004-138577 and machine English translation (56 pages)